

JUN 21 2007

Application No. 10/810,349
Filed: March 26, 2004
TC Art Unit: 3721
Confirmation No.: 8227

REMARKS

Claims 1, 3, 4, 6, 13, 14, 19, 21, and 22 have been amended. The inclusion of a sensor in claim 1 is supported, for example, by the last full paragraph on page 4 of the specification. Claim 12 has been canceled without prejudice. No new matter has been added.

I. Claim Rejection Under 35 U.S.C. § 112:

The Applicant has noted the Examiner's rejection of claims 1-8, 10-15, and 19-22 under 35 U.S.C. § 112, second paragraph. The Applicant respectfully submits that the rejection of claim 12 is now moot as claim 12 has been canceled without prejudice. In view of the amended claims 1, 3, 4, 6, 13, 14, 19, 21, and 22, the Applicant requests that all of the pending claims be reconsidered and the rejections withdrawn.

The Examiner mentions on page 2 of the Office Action that "designed such that the loading unit places a formed layer" and "designed to already provide the first rotating system" are indefinite. These were rectified in the last response to Office Action filed on November 1, 2006.

Application No. 10/810,349
Filed: March 26, 2004
TC Art Unit: 3721
Confirmation No.: 8227

II. Claim Rejection Under 35 U.S.C. § 102:

Claims 1, 5, and 14-15 have been rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by US Patent Number 4,864,801 (hereinafter, Fallas). The Applicant respectfully traverses the rejection.

Fallas teaches an apparatus for automatically collecting and packing a selected number of units of product in flexible bags into a carton in a vertical orientation. The apparatus includes a collecting assembly for receiving and positioning a row of such units in an inclined position. An assembly is provided to transport the inclined row of units from the collecting assembly to a loading station. The loading station is operable to raise one or more rows transported thereto from their inclined position to a substantially vertical position, then plunge the vertically positioned units into a carton. A controller is provided for synchronizing the relative operation of the apparatus. (Fallas Abstract, emphasis added).

Fallas does not suggest or disclose the elements of (i) a holder being sized to be substantially fittingly receivable in the container to be loaded, (ii) a loading unit that places the layer (of bags) by moving the holder down into said container at a predetermined distance from the bottom of the container to be

-11-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

Application No. 10/810,349
Filed: March 26, 2004
TC Art Unit: 3721
Confirmation No.: 8227

loaded, and (iii) the predetermined distance reported by a sensor to the control means that includes the sensor as is positively claimed by the Applicant in claim 1 reproduced below:

1. An apparatus for loading containers with bags, wherein the apparatus comprises:
 - a feed conveyor assembly;
 - a loading unit;
 - a control means for forming a layer of bags in the loading unit, the layer having dimensions substantially corresponding to at least one bottom dimension of a container to be loaded; wherein
 - the loading unit includes a holder which is movable up and down, the holder being sized to be substantially fittingly receivable in the container to be loaded;
 - and wherein
 - the control means, including a sensor, controls the loading unit to place the layer by moving the holder down into said container to be loaded, at a predetermined distance between a bottom of the layer and a bottom of the container to be loaded, the predetermined distance reported by the sensor to the control means. (Emphasis added).

Fallas discloses a door 66 which opens and units 12 are pushed into the carton 14 beneath the door 66. (See column 7, lines 44-48 and FIG. 2J). Such a mechanism has a plunger 70 pushing the units 12 into the carton with an attendant risk of damage to the contents of units 12. An array [of bags] is placed over a trap door, a pair of bomb bay doors or the like. The door

-12-

WRINGARTEN, SCHURGIN,
GAGNEBIN & LESOVICI LLP
TEL. (617) 542-2250
FAX. (617) 451-0313

Application No. 10/810,349

Filed: March 26, 2004

TC Art Unit: 3721

Confirmation No.: 8227

is opened and the array is dropped or pushed into a suitable container. (Column 3, lines 40-42 and 60-63). In other words, the door 66 and the plunger 70 have a distinct structure and do not achieve what is achieved by the inventive holder moving down into the container. Further, the inventive holder moves up and down while the door 66 of Fallas pivots between a vertical and a horizontal position.

Fallas also does not suggest or disclose a control means that includes a sensor. The control means controls the loading unit to place the layer by moving the holder down into said container to be loaded, at a predetermined distance between a bottom of the layer and a bottom of the container to be loaded, the predetermined distance reported by the sensor to the control means.

Therefore, the Applicant respectfully submits that claim 1 is patentably distinct over Fallas and meets all of the requirements of 35 U.S.C. § 102(b). The Examiner is, therefore requested to withdraw the rejection of claim 1.

Claims 2-5, and 14-15 depend, directly or indirectly, from claim 1. As discussed above, these dependent claims are also patentably distinct at least for the reasons stated above.

-13-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

Application No. 10/810,349
Filed: March 26, 2004
TC Art Unit: 3721
Confirmation No.: 8227

Therefore, the Examiner is respectfully requested to withdraw the rejection of these dependent claims as well.

III. Claim Rejection Under 35 U.S.C. § 103:

The Examiner has rejected claims 2-4 under 35 U.S.C. § 103(a) as being unpatentable over Fallas in view of US Patent Number 5,430,994 (hereinafter, Focke). Claims 6-8, 12-13, and 20 are rejected as being unpatentable over Fallas in view of US Patent Number 5,123,231 (hereinafter, Fallas'231). Further, claims 10 and 11 have been rejected as being unpatentable over Fallas; claims 19 and 21 have been rejected as being unpatentable over Fallas in view of Focke and further in view of Fallas'231; and claim 22 has been rejected as being unpatentable over Fallas in view of Fallas'231 and further in view of Focke. The Applicant respectfully traverses the rejections.

The Applicant respectfully states that claim 12 has been canceled without prejudice rendering its rejection moot.

As discussed above, claim 1 is patentably distinct over Fallas. All of the dependent claims rejected under 35 U.S.C. § 103(a) depend, directly or indirectly, from claim 1. Therefore, claims 2-4, 6-8, 10-11, 13, and 19-22 are also patentably

JUN 21 2007

Application No. 10/810,349

Filed: March 26, 2004

TC Art Unit: 3721

Confirmation No.: 8227

unobvious over the cited references as they meet all of the requirements of § 103(a). The Examiner is, therefore requested to withdraw the rejections.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

PIETER THEODORUS JOHANNES AQUARIUS

By: 

Charles L. Gagnebin III
Registration No. 25,467
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

CLG/dkh/351916.1